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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,560	03/07/2002	Hideki Akiyama	0505-0965P	9103
2292	7590	12/17/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			ROSENBERG, LAURA B	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,560

Applicant(s)

AKIYAMA ET AL.

Examiner

Laura B Rosenberg

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-16 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed on September 25, 2003, in which claims 1-13 were amended and claims 14-16 were added.

Drawings

2. The drawings were received on September 25, 2003. These drawings are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Behr (3,226,146). In regards to claim 1, Behr discloses a vehicle (#15) having a riding space (not labeled; can be seen in figure 1) for an occupant and a shock absorbing structure (#10) comprising a bumper member (#52, 12, 13) extending substantially along a length of the vehicle for receiving an external force heading from a front side (near #52) of the vehicle to the occupant and a pair of shock absorbing members (#57;

specifically the rear compression springs) having front ends (portions of #57 closest to #12, 13) connected at rear ends (portions of #12, 13 near the rear bumper) of the bumper member and having rear ends (portion of #57 closest to #52a) fitted into a pair of receiving portions (#50 at rear of vehicle) of a vehicle body frame, the receiving portions being located rearwardly of a rear end of a floor of the vehicle (best seen in figure 1).

In regards to claim 3, Behr discloses the bumper member (#52, 12, 13) being U-shaped (best seen in figure 1) and including a front portion (#52) for engaging an obstruction and rearwardly extending portions (#12, 13) that project rearwardly from the front portion of the bumper member, the rearwardly extending portions being disposed adjacent to the pair of shock absorbing members (#57) for absorbing a shock during an accident.

In regards to claim 14, Behr discloses the bumper member being formed with a bent stepwise shape when viewed in a side view (best seen in figures 3, 4).

5. Claims 5, 7, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers (3,831,997). In regards to claim 5, Myers discloses a vehicle (#11) having a riding space (#16) for an occupant and a shock absorbing structure (#13, 14, 21-25) for the vehicle comprising a bumper member (#13, 14, 21, 23) extending from a front of the vehicle and substantially along sides of the riding space for receiving an external force heading from the front (near #23) to the occupant and for absorbing a side force (near #13, 14, 21) and a pair of shock absorbing members (#22; on each side of the vehicle)

connected at rear ends (between #14 and 15) of the bumper member and disposed adjacent right and left sides of a seat (not shown) of the vehicle.

In regards to claim 7, Myers discloses the bumper member (#13, 14, 21, 23) being a U-shaped member including a front portion (#23) for engaging an obstruction and rearwardly extending portions (#13, 14, 21) that project rearwardly from the front portion of the bumper member, the rearwardly extending portions being disposed adjacent to the pair of shock absorbing members (#22) for absorbing shock during an accident (column 2, lines 9-13).

In regards to claim 15, Myers discloses the bumper member having a substantially straight view when viewed in a side view (best seen in figure 1).

6. Claims 5-8 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hachet et al. (6,158,356). In regards to claim 5, Hachet et al. disclose a vehicle having a riding space (#2, 3) for an occupant and a shock absorbing structure (#9-11) for the vehicle comprising a bumper member (#10, 11) extending from a front of the vehicle and substantially along sides of the riding space (best seen in figure 2) for receiving an external force heading from the front (near #10, 11) to the occupant and for absorbing a side force (near side portions of #10) and a pair of shock absorbing members (#9) connected at rear ends (near #4) of the bumper member (#9 connected to #10 via #4) and disposed adjacent to right and left sides of a seat (not shown) of the vehicle.

In regards to claims 6 and 8, Hachet et al. disclose a crushing amount of the shock absorbing members being an effective crushing length (length of #9B), which is

the length from a front end of the vehicle body to a front end of the riding space (the length of #9B is equivalent to the distance between the front of #11 and the riding space within #2).

In regards to claim 7, Hachet et al. disclose the bumper member (#10, 11) being a U-shaped member including a front portion (#11 and front portion of #10) for engaging an obstruction and rearwardly extending portions (side portions of #10) that project rearwardly from the front portion of the bumper member, the rearwardly extending portions being disposed adjacent to the pair of shock absorbing members (best seen in figure 2) for absorbing shock during an accident (column 4, lines 37-40).

In regards to claim 15, Hachet et al. disclose the bumper member having a substantially straight view when viewed in a side view (best seen in figure 2).

7. Claims 9, 11-13, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Renault (6,435,577). In regards to claim 9, Renault discloses a shock absorbing structure (best seen in figure 1) for a vehicle for absorbing an impact by having a shock absorbing body (#10, 32, 34) projecting from a vehicle body crushed during impact. The shock absorbing body comprises an upper shock absorbing member (#10) disposed on an upper side (near #4) and a lower shock absorbing member (#32) disposed below the upper shock absorbing member (best seen in figure 1). The upper and lower shock absorbing members are formed of two types of members having different crushing features (column 4, lines 46-52) and are mounted over a front wheel of the vehicle and project forwardly of the front wheel by a predetermined length.

Although the front wheel is not shown in the Renault reference, the location of a front wheel in this type of vehicle is well known, and the shock absorbing members would be mounted over and forwardly of the front wheel.

In regards to claim 11, Renault discloses the two types of members (#10, 32) being constructed of foamed resin made of the same material but having different crushing features due to a different in density (column 4, lines 46-52).

In regards to claim 12, Renault discloses the shock absorbing body (#34) having an angular C-shape (best seen in figures 1, 2).

In regards to claim 13, Renault discloses the upper shock absorbing member being spaced a predetermined distance relative to the lower shock absorbing member (best seen in figure 1).

In regards to claim 16, Renault discloses a rear wall (rear portion of #34, shown as the right side of #34 in figure 1) of the shock absorbing body being curved in order to be fittingly mounted on a front cover (#4) of the vehicle (best seen in figures 1, 2).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Renault (6,435,577). In regards to claim 10, Renault teaches the lower shock absorbing

member having a higher density, thus being more difficult to deform by a low load in comparison with the upper shock absorbing member. The upper and lower shock absorbing members are configured in this manner to compensate for a specific car styling (column 4, lines 33-46). Thus, it would have been an obvious engineering design choice to include a lower shock absorbing member which is easily deformable by a low load in comparison with the upper shock absorbing member as claimed so as to compensate for varying body styles and to provide an effective arrangement of the shock absorbing members.

Allowable Subject Matter

10. Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to independent claim 1 have been considered but are moot in view of the new ground(s) of rejection.

12. Regarding independent claim 5, Myers and Hatchet et al. both disclose a pair of shock absorbing members disposed adjacent to right and left sides of a vehicle seat. The applicant is reminded that "adjacent to" simply means that one item is near or close to another item.

13. Regarding independent claim 9, while Renault does not show a front wheel in the drawings, it is old and well known in the art that the location of a front wheel in Renault's vehicle would be such that the shock absorbing members would be mounted over and forwardly of the front wheel.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mueller-Mahn discloses a shock absorbing structure for a two-wheeled vehicle..

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Laura B. Rosenberg

LBR

Paul N. Dickson 12/11/03
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